

## Oklahoma Statutes Citationized

### Title 36. Insurance

#### Chapter 2 - Miscellaneous Provisions

#### Small Employer Health Insurance Reform Act

#### Section 6519 - Offer to Small Employers of at Least Two Health Benefit Plans - Filing of Basic Health Benefits Plan - Required Coverage

Cite as: 36 O.S. § 6519, \_\_ \_\_

A. 1. As a condition of transacting business in this state with small employers, every small employer carrier shall actively offer to small employers the health benefit plans currently being marketed by the small employer carrier.

2. a. A small employer carrier shall issue a health benefit plan to any eligible small employer that applies for a plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with Section 6511 et seq. of this title.

b. In the case of a small employer carrier that establishes more than one class of business pursuant to Section 6514 of this title, the small employer carrier shall maintain and issue to eligible small employers all health benefit plans currently being marketed in each class of business so established. A small employer carrier may apply reasonable criteria to determine the class of business applicable to any small employer, provided that:

- (1) the criteria are not intended to discourage or prevent acceptance of small employers applying for a health benefit plan,
- (2) the criteria are not related to the health status or claim experience of the small employer,
- (3) the criteria are applied consistently to all small employers applying for coverage in the class of business, and
- (4) the small employer carrier provides for the acceptance of all eligible small employers into one or more classes of business.

The provisions of this subparagraph shall not apply to a class of business into which the small employer carrier is no longer enrolling new small businesses.

3. A small employer is eligible under paragraph 2 of this subsection if it employed at least two or more eligible employees within this state on at least fifty percent (50%) of its working days during the preceding calendar quarter. This also includes family businesses where employees of the business may be related. The fact that the employees are related shall have no effect on the eligibility for coverage of the small employer.

4. A small employer carrier that offers a health benefit plan in the small employer market only through one or more bona fide association health plans is not required to offer that health benefit plan to any small employer that is not a member of the bona fide association sponsoring the bona fide association health plan.

B. 1. A small employer carrier shall file with the Commissioner, in a format and manner prescribed by the **Commissioner**, all **health** benefit plans to be used by the carrier. A health benefit plan filed pursuant to this paragraph may be used by a small employer carrier beginning sixty (60) days after it is filed unless the Commissioner disapproves its use.

2. Except as otherwise set forth in this title, the Commissioner at any time may, after providing notice and an opportunity for a hearing to the small employer carrier, disapprove the continued use by a small employer carrier of any health benefit plan on the grounds that the plan does not meet the requirements of the Small Employer Health Insurance Reform Act.

C. Health benefit plans covering small employers shall comply with the following provisions:

1. A health benefit plan shall not deny, exclude or limit benefits for a covered individual for losses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

- a. a condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage, or
- b. a condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage;

2. A health benefit plan may exclude coverage for late enrollees for the greater of eighteen (18) months or for an eighteen-month preexisting condition exclusion; provided that if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed eighteen (18) months from the date the individual enrolls for coverage under the health benefit plan;

3. a. Except as provided in subparagraph d of this paragraph, requirements used by a small employer carrier will be limited to requirements for minimum participation of eligible employees and minimum employer contributions. These requirements shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.

b. A small employer carrier may vary application of minimum participation requirements and minimum employer contribution requirements only by the size of the small employer group.

c. (1) Except as provided in division (2) of this subparagraph, in applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met.

(2) With respect to a small employer, a small employer carrier may consider employees or dependents who have coverage under another health benefit plan sponsored by a small employer in applying minimum participation requirements.

d. A small employer carrier shall not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to

a small employer at any time after the small employer has been accepted for coverage; and

4. a. If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group or to only part of the group, except in the case of late enrollees as provided in paragraph 2 of this subsection.

b. Except as permitted under paragraphs 1 and 2 of this subsection, a small employer carrier shall not modify a health benefit plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions or services otherwise covered by the plan.

D. The Commissioner shall develop, by rule, a uniform health questionnaire for use by small employers applying for health insurance coverage under group health plans offered by small employer carriers. Small employer carriers shall be required to accept and use the uniform health questionnaire not more than six (6) months after the rules adopting the questionnaire become effective.

E. 1. A small employer carrier shall not be required to offer coverage or accept applications pursuant to subsection A of this section in the case of the following:

a. to a small employer, where the small employer is not physically located in the established geographic service area of the carrier,

b. to an employee, when the employee does not work or reside within the established geographic service area of the carrier, or

c. within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the Commissioner, that it will not have the capacity within its established geographic service area to deliver service adequately to the members of such groups because of its obligations to existing group policyholders and enrollees.

2. A small employer carrier that cannot offer coverage pursuant to subparagraph c of paragraph 1 of this subsection may not offer coverage in the applicable area to new cases of employer groups with more than fifty (50) eligible employees or to any small employer groups until the later of one hundred eighty (180) days following each refusal or the date on which the carrier notifies the Commissioner that it has regained capacity to deliver services to small employer groups.

F. A bona fide association health plan established pursuant to this title to provide benefits to a particular trade, business, profession or industry or their subsidiaries shall not issue coverage to a group or individual that is not in the same trade, business, profession or industry as that covered by the bona fide association health plan. The bona fide association health plan shall accept all employer groups in the same trade, business, profession or industry or their subsidiaries that apply for coverage under the arrangement and that meet the requirements for membership in the arrangement. For purposes of this subsection, the requirements for membership in a bona fide association health plan shall not include any requirements that relate to the actual or expected health status of the prospective enrollee.

Historical Data

Laws 1994, HB 2256, c. 211, § 5, emerg. eff. July 1, 1994; Amended by Laws 1998, HB 2843, c. 304, § 4, emerg. eff. July 1, 1998 ([superseded document available](#)); Amended by Laws 2010, HB 2045, c. 166, § 1, eff. November 1, 2010 ([superseded document available](#)); Amended by Laws 2012, SB 1621, c. 151, § 3, eff. November 1, 2012 ([superseded document available](#)).

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